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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/516,728	03/01/2000	Thomas O Daniel	1242/12/2	2723

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EXAMINER

BANSAL, GEETHA P

ART UNIT PAPER NUMBER

1642

DATE MAILED: 02/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/516728

Applicant(s)

Daniel et al

Examiner

Lyetta Ramsal

Group Art Unit

1642

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE -3- MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 10/25/01
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-44 is/are pending in the application.
- Of the above claim(s) 15-44 is/are withdrawn from consideration.
- ☐ Claim(s) is/are allowed.
- ☒ Claim(s) 1-14 is/are rejected.
- ☐ Claim(s) is/are objected to.
- ☐ Claim(s) are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 4,5,9
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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DETAILED ACTION

1. Applicant's election without traverse of Group I (claims 1-14) in Paper No. 13 is acknowledged. Claims 15-44 have been withdrawn as being directed to a non-elected invention.
2. Response to drawing requirements have been received.

Claim Objections

3. It is noted that amino acid sequences appear in the claims, which do not follow the sequence rules according to 37 CFR 1.821 (d). Where the description or claims of a patent application discuss a sequence that is set forth in the "Sequence Listing" in accordance with 37 CFR 1.821(c) (MPEP 2422), reference must be made to the sequence by use of the sequence identifier, preceded by "SEQ ID NO: " in the text of the description or claims, even if the sequence is also embedded in the text of the description or claims of the patent application.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1, 4, 8, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Tonks et al 91995; WO 95/30008).

The claims are drawn to a purified antibody which preferentially binds ECRT/DEP-1 and fragments or derivatives thereof. The antibody can be a monoclonal antibody or a humanized antibody and present in a pharmaceutically acceptable buffer. Tonks et al teach antibodies to the human DEP-1 protein which appears to be the same protein and has functional activities that are

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drawn to receptor tyrosine phosphatases. See pages 7, 18 and claims 23-27 of Tonks et al. Tonks et al also contemplates fragments of antibodies, chimeric antibodies (page 8, line 17 to page 9, line 2). The antibodies are inherently used in a pharmaceutically acceptable buffer to study in vivo binding and/or signal transduction activities which are some of the uses described in Tonks et al.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. Claims 1-4, 8-11 are indefinite in their recitation of "preferentially" as the metes and bound of the term are not clear.

B. Claims 3 and 10 are ambiguous in the recitation of "analog sequence".

C allow. Claims 6 and 12 are indefinite in that it is not clear what the metes and bound of "immunoreaction characteristics"

8. No claims are allowed. Claims 2-3, 5-7, 9-13 are free of the art.

9. Papers related to this application may be submitted to Group 1640 by facsimile transmission. Papers should be faxed to Group 1640 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 308-4242 or (703) 305-3014.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Geetha P. Bansal whose telephone number is (703) 305-3955. The examiner can normally be reached on Mondays to Thursdays from 7:00am to 4:30pm and

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alternate Fridays from 7:00am to 3:30pm. A message may be left on the examiner's voice mail service.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Anthony Caputa, can be reached on (703) 308- 4995.

11. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

February 17, 2002



GEETHA P. BANSAL
PRIMARY EXAMINER